IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 11.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Habeas Corpus Petition No.674 of 2006

Sivakumar ... Petitioner

Vs.

1.The State of Tamil Nadu,
rep. by its Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-9.

2.The District Magistrate and
District Collector,
Krishnagiri District,
Krishnagiri. .. Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to call for the records of detention order dated 17.05.2006 passed in proceedings S.C.No.10/2006 by the second respondent herein, quash the same and to produce the petitioner viz., Sivakumar now confined at Central Prison, Salem before this Court and set him at liberty.

For Petitioner : Mr.S.Pushpakaran
For Respondents : Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM,J.)

The petitioner, by name Sivakumar, who is detained as a ''Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982), by the impugned detention order dated 17.05.2006, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 21.06.2006 was received by the Government on 29.06.2006 and the remarks were called for on 30.06.2006. The representation of the detenu was received from the Government by the Collectorate on the same day i.e. on 30.06.2006 and parawar remarks were called for from the Sponsoring authority on 03.07.2006 and the remarks were received from the sponsoring authority on 18.07.2006 and report was sent to the Government on 19.07.2006. In the mean time, the remarks were received by the Government on 24.07.2006 and the File was submitted on 25.07.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on the same day on 25.07.2006 and finally, the Minister for Prohibition and Excise also passed orders on the same day i.e. on 25.07.2006. The rejection letter was prepared on 26.07.2006 and the same was sent to the detenu on the same day i.e. on 26.07.2006 and served to him on 28.07.2006. As rightly pointed out by the learned counsel for the petitioner, though parawar remarks were called for from the sponsoring authority on 03.07.2006, the remarks were received from the sponsoring authority by the Collectorate only on 18.07.2006 and there is no explanation at all for sending the remarks to the Collectorate belatedly. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for sending the remarks to the Collectorate is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

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4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

raa

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government, State of Tamil Nadu, Prohibition and Excise Department, Fort St. George, Chennai-600 009.

2. The District Magistrate and District Collector, Krishnagiri District, Krishnagiri.

3. The Superintendent, Central Prison, Salem.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order) Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

+ ONE CC TO MR. S. PUSHPAKARAN, ADVOCATE SR NO. 42132
SGL(CO)
NM(15.09.2006)

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